



Virginia
Regulatory
Town Hall

Final Regulation Agency Background Document

Agency Name:	State Mental Health, Mental Retardation and Substance Abuse Services Board
VAC Chapter Number:	12 VAC 35-140-10 et seq. 12 VAC 35-150-10 et seq. 12 VAC 35-160-10 et seq. 12 VAC 35-20-10 et seq.
Regulation Title:	Mandatory Standards for Community Mental Health Programs; Mandatory Standards for Community Mental Retardation Programs; Mandatory Standards for Community Substance Abuse Programs; and Mandatory Standards for the Certification of First Offender Drug Abuse Diversion and Education Programs
Action Title:	Repeal
Date:	1/23/02

Please refer to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99) , and the *Virginia Register Form, Style and Procedure Manual* for more information and other materials required to be submitted in the final regulatory action package .

Summary

Please provide a brief summary of the new regulation, amendments to an existing regulation, or the regulation being repealed. There is no need to state each provision or amendment; instead give a summary of the regulatory action. If applicable, generally describe the existing regulation. Do not restate the regulation or the purpose and intent of the regulation in the summary. Rather, alert the reader to all substantive matters or changes contained in the proposed new regulation, amendments to an existing regulation, or the regulation being repealed. Please briefly and generally summarize any substantive changes made since the proposed action was published.

The purpose of this action is to repeal four outdated regulations that were promulgated in the early 1980's. These regulations prescribe minimum standards for mental health, mental retardation and substance abuse programs of community services boards and first offender drug abuse diversion and education programs which were designed to ensure the health safety and welfare of individuals who receive services from these programs. All such programs now require a license to operate according to § 37.1-183.1 of the Code of Virginia and the rules and regulations that have been promulgated by the Board. These regulations for licensing govern program operations and are intended to protect individuals receiving services from these program providers. Therefore, the four regulations that are proposed for repeal duplicate the goals and functions of the licensing regulations and are considered unnecessary.

Statement of Final Agency Action

Please provide a statement of the final action taken by the agency: including the date the action was taken, the name of the agency taking the action, and the title of the regulation.

At its meeting on January 17, 2002, the State Board for Mental Health, Mental Retardation and Substance Abuse Services Board voted to take final action to repeal the Mandatory Standards for Community Mental Health Programs; Mandatory Standards for Community Mental Retardation Programs; Mandatory Standards for Community Substance Abuse Programs; and Mandatory Standards for the Certification of First Offender Drug Abuse and Diversion and Education Programs.

Basis

Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority, shall be provided. If the final text differs from that of the proposed, please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the final regulation and that it comports with applicable state and/or federal law.

The Office of the Attorney General indicates that the Board has the authority to repeal these regulations under Virginia Code §§ 37.1-10; 37.1-179.1-37.1-181 and 37.1-182. The referenced sections of the Code provide the legal authority for the Board's licensing regulations. Virginia Code § 37.1-179.1 states:

“The Commissioner, subject to rules and regulations promulgated by the Board, may license any suitable person to establish, maintain and operate, or have charge of any facility or institution which provides care or treatment for mentally ill persons, mentally retarded persons or persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants...”

The Board promulgated *Rules and Regulations for the Licensure of Facilities and Providers of Mental Health, Mental Retardation and Substance Abuse Services*, 12 VAC 35-102-10 et seq., in January 1995. (The Board has recently taken action to replace these regulations with updated regulations for licensing.) The four regulations that have been proposed for repeal duplicate the purpose and function of the existing licensing regulations.

The Code of Virginia at § 37.1-183.1 requires persons operating facilities that provide care or treatment to persons with mental illness, mental retardation or substance abuse to be licensed in accordance with the provisions of the law.

Purpose

Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the final regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.

These four regulations have been superseded by the Board's licensing regulations, which provide the means necessary to protect the health, safety and welfare of citizens who receive services from community mental health, mental retardation and substance abuse programs. Therefore, these regulations do not fulfill any essential functions or goals. For this reason, the Board determined that these regulations are unnecessary and is taking final action to repeal.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement of the regulatory action's detail.

This action will repeal four unnecessary regulations. No new substantive provisions or substantive changes are being proposed.

Issues

Please provide a statement identifying the issues associated with the final regulatory action. The term "issues" means: 1) the advantages and disadvantages to the public of implementing the new provisions; 2) the advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please include a sentence to that effect.

There are no disadvantages to the public or the Commonwealth associated with the repeal of these regulations. This action would not adversely affect the health, safety and welfare of Virginia citizens. These regulations are outdated and have been superseded by the Board’s licensing regulations that provide the means necessary to protect the health and welfare of citizens who receive services from community mental health, mental retardation and substance abuse programs. In addition, these regulations replicate many of the elements in the Department’s contracts with community services boards, which are designed to ensure the accountability of community providers and protections for the individuals who are served. This action will eliminate unneeded and outdated regulations and thereby eliminate the potential for confusing or conflicting regulatory standards.

Statement of Changes Made Since the Proposed Stage

Please highlight any changes, other than strictly editorial changes, made to the text of the proposed regulation since its publication.

These regulations are proposed for repeal. No changes have been made to the regulations since the publication at the proposed stage.

Public Comment

Please summarize all public comment received during the public comment period and provide the agency response. If no public comment was received, please include a statement indicating that fact.

The agency did not receive any public comment regarding the repeal of these four regulations.

Detail of Changes

Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or crosswalk - of changes implemented by the proposed regulatory action. Include citations to the specific sections of an existing regulation being amended and explain the consequences of the changes.

These four regulations are proposed for repeal. No changes have been proposed to the existing regulations.

Family Impact Statement

Please provide an analysis of the regulatory action that assesses the impact on the institution of the family and family stability including the extent to which the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for

oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

These four regulations were designed to provide assurances to families that the community programs that provide mental health, mental retardation and substance abuse services would be held accountable for the health, safety and welfare of citizens that they serve. Because there are now alternative mechanisms in place to provide this function, the repeal of these regulations should not have any adverse impact on families.